

LOURDES RAMIREZ-CUADERNO, PETITIONER, VS. ANGEL CUADERNO, RESPONDENT.*G. R. No. 20043. November 28, 1964*

Ponente: BARRERA, J.

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As a consequence of a complaint for support filed by Lourdes Ramirez-Cuaderno on August 14, 1957, against her husband Angel Cuaderno, the Juvenile and Domestic Relations Court, after due hearing, rendered judgment ordering the latter to give the plaintiff-wife a monthly support of P150.00, from the date of the filing of the complaint, plus attorney's fees, and to pay the costs.

On appeal by the husband to the Court of Appeals, said decision was reversed and set aside "so that (in the language of the court) appellant and appellee may again resume cohabitation which they are hereby admonished to do as their duty as husband and wife." The wife filed the instant petition for review of the aforesaid ruling of the Court of Appeals.

It has been established that the couple were living separately since November 17, 1956 when the husband, after having inflicted bodily injuries on the wife in the course of a quarrel between them, took her to her mother's house where the latter stayed until the institution of the claim for support. The wife claimed maltreatment and abandonment by the husband as basis therefor, whereas tin husband, in resisting her demand for maintenance, contended that it was she who left the conjugal dwelling and, consequently, is not entitled thereto.

The trial court, in granting the wife's demand, sustained the theory that she was driven out of the dwelling or, at least prevented from returning thereto by reason of defendant's maltreatment. The Court of Appeals, on the other hand, while adopting the findings of the Juvenile and Domestic Relations Court as to the husband's roll in the incident that led to the separation, and notwithstanding the declaration by the husband during the hearing that "all the trouble she (the wife) has given, me is enough for me to turn my back to her" set aside the decision of the lower court, on the ground that it believes that the conditions wore such that cohabitation between the spouses is not yet impossible. Thus, they were admonished to live together as husband and wife.[1]

We recognize the wisdom of the exhortation that in the interest of society, and perhaps' of the parties, court should move with caution in providing separate maintenance for the wife, a situation which would be an acknowledgement of the de facto separation of the spouses. However, it would be taking an unrealistic view for us to compel or urge them to live together when, at least for the present, they, specially the husband, are speaking of impossibility of cohabitation. For while marriage entitles both parties to cohabitation or consortium, the sanction therefore is the spontaneous, mutual affection between husband and wife[2] and not any legal mandate or court order. This is due to the inherent characteristic and nature of marriage in this jurisdiction.

In the instant case, it is not disputed that the infliction of physical injuries on the wire, by the husband, gave rise to their separation. It is likewise shown it was the husband who took his wife to her parents' home where he left her. The fact that the wife allegedly accepted money from her husband and desisted from accepting any later, because

according to the latter, she was demanding for more, only indicates that even before the filing of the present case, the defendant-husband was already providing something for the separate maintenance. Considering that the wife has no income of her own, while the husband has an employment, the sum of P150.00 fixed by the trial court for the wife's monthly support does not seem to be unreasonable. Needless to state that, as the separation has been brought about by the husband and under the circumstances established during the trial, the same shall subsist until a different situation between the parties shall take place.

Wherefore, the decision of the Court of Appeals is set aside and that of the Juvenile and Domestic Relations Court is hereby revived, without costs. So ordered.

Bautista Angelo. Concepcion. Reyes, J. B. L. Paredes, Bengzon, J. P. and Zaldivar, JJ. concur.

[1] See *Arroyo vs. Velasquez de Arroyo*, 42 Phil. 54.

[2] Vol. I, Tolentino's Civil Code of the Phil., p. 296, 299.

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